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Attorneys for Defendant JPMorgan Chase Bank, N.A.

UNITED STATES DISTRICT COURT
DISTRICT OF CALIFORNIA – CENTRAL DISTRICT

HUYEN CHI TON NU, an individual,) Case No.

Plaintiff,

vs.

JP MORGAN CHASE BANK, a
National Association; and DOES 1
through 50, inclusive,

Defendants.

**NOTICE OF REMOVAL OF CIVIL
ACTION BY DEFENDANT
JPMORGAN CHASE BANK, N.A.,
PURSUANT TO 28 U.S.C. SECTION
1441(b)**

[DIVERSITY]

1 TO THE UNITED STATES DISTRICT COURT FOR THE CENTRAL
2 DISTRICT OF CALIFORNIA:

3 PLEASE TAKE NOTICE that, pursuant to sections 1441(b) and 1332 of Title
4 28 of the United States Code, Defendant JPMORGAN CHASE BANK, N.A.
5 (“Chase”), hereby removes the action entitled *Huyen Chi Ton Nu v. JP Morgan*
6 *Chase Bank, et al.*, pending before the Superior Court of the State of California for
7 the County of Orange, Case No. 30-2018-00984177-CU-BC-CJC (the “Action”), to
8 the United States District Court for the Central District of California based on
9 diversity jurisdiction as fully detailed below.

10 1. On or about April 5, 2018, Plaintiff Huyen Chi Ton Nu (“Plaintiff”)
11 filed the Action in the Superior Court of the State of California for the County of
12 Orange. Plaintiff personally served Chase with his Complaint on May 8, 2018. A
13 true and correct copy of the Summons and Complaint in the Action is attached
14 hereto as Exhibit “A.”

15 2. In the Complaint, Plaintiff alleges that she opened a safe deposit box at
16 a Chase branch and then, when she returned to the branch to open her safe deposit
17 box, items were missing. Plaintiff seeks damages of at least \$93,000. See Ex. A at
18 ¶¶ 9-16.

19 3. There are no other named defendants in this action and thus, no joinder
20 to the Notice of Removal of the Action is required.

21 4. Removal: 28 U.S.C. §1446(b)(1) provides that removal is proper
22 within 30 days of service on the defendant. Chase was served within 30 days of the
23 filing of this removal.

24 5. Complete diversity of citizenship exists as follows:

25 The Action is a civil action of which this Court has original jurisdiction under
26 28 U.S.C. section 1332 and is one which may be removed to this Court by Chase
27 pursuant to the provisions of 28 U.S.C. section 1441(b) in that diversity of
28 citizenship can be ascertained from the face of Plaintiff’s Complaint.

For complete diversity to be present, all plaintiffs must have citizenship different from all defendants. *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 68 n. 3 (1996). There is complete diversity in this Action because Chase is a citizen of Ohio and Plaintiff is a citizen of California. For purposes of diversity, 28 U.S.C. section 1348 provides that “[a]ll national banking associations shall, for the purposes of all other actions by or against them, be deemed citizens of the States in which they are respectively located. The Supreme Court has also concluded that “a national bank ... is a citizen of the State in which its main office, as set forth in its articles of association, is located.” *Wachovia Bank v. Schmidt*, 546 U.S. 303, 307 (2006). The Supreme Court in *Wachovia* expressly rejected an approach that would consider a national banking association a citizen of every state in which it maintains a branch. *Id.* Thus, while Plaintiff incorrectly alleges in her Complaint that Chase maintains its principal place of business at 818 West 7th Street, Suite 930, Los Angeles, California, Chase was and is a national banking association chartered under the laws of the State of Ohio, which identifies its main office or principal place of business located in the City of Columbus, County of Delaware in the State of Ohio. See Ex. A, ¶ 3; Ex. 1 to the accompanying Request for Judicial Notice.

For diversity purposes, a person is a “citizen” of the state in which he or she is domiciled. *Kantor v. Wellesley Galleries, Ltd.*, 704 F.2d 1088, 1090 (9th Cir. 1983). A party’s residence is “prima facie” evidence of domicile. *State Farm Mut. Auto. Ins. Co. v. Dyer*, 19 F.3d 514, 520 (10th Cir. 1994). The Complaint alleges that Plaintiff is a resident of the County of Los Angeles in the State of California. Ex. A, ¶ 2.

As such, prima facie evidence in the Complaint and the Request for Judicial Notice indicates that Plaintiff is a citizen of California and Chase is a “citizen” of Ohio, thereby establishing complete diversity between Plaintiff and Defendant Chase. For removal purposes, diversity must exist both at the time the action was commenced in state court and at the time of removal. See *Strotek Corp. v. Air*

1 *Transport Ass'n of Am.*, 300 F.3d 1129, 1131(9th Cir. 2002). As set forth above,
 2 pursuant to the allegations of the Complaint, diversity existed at the time the action
 3 was commenced in state court. Further, there is complete diversity as of the time of
 4 the instant removal as Chase was not and is not a citizen of the California, where
 5 this action is pending.

6 6. Amount in Controversy: Diversity jurisdiction exists only where the
 7 matter in controversy exceeds the sum or value of \$75,000 exclusive of interest and
 8 costs. 28 U.S.C. section 1332(a). The amount in controversy for jurisdictional
 9 purposes is determined by the amount of damages or the value of the property that is
 10 the subject of the action. *Hunt v. Washington State Apple Advertising Comm'n*,
 11 432 U.S. 333, 347-348 (1977). The amount in controversy may include
 12 compensatory damage claims for general or special damages as well as punitive
 13 damages. *Anthony v. Sec. Pac. Fin. Servs., Inc.* (7th Cir. 1996) 75 F.3d 311, 315.

14 7. The prayer for relief in the Complaint seeks general, specific, and
 15 punitive damages, plus attorney fees and costs, in an amount in excess of \$93,000.
 16 See Ex. A at p. 10.

17 8. Removal is Timely: Based on the foregoing, Chase timely files this
 18 Notice of Removal based on diversity of citizenship of the parties and because the
 19 amount in controversy exceeds \$75,000.00, within thirty (30) days after the
 20 purported service of the Plaintiff's Supplemental Responses to Special
 21 Interrogatories on Chase. 28 U.S.C. sections 1332 and 1446(b).

22 9. Simultaneously with this Notice of Removal, Chase is filing a copy of
 23 this Notice of Removal with the Superior Court of the State of California for the
 24 County of Orange, which will also be timely served on Plaintiffs.

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1 10. The Complaint is the only process, pleading or other order filed in the
2 state court action, so nothing else need be attached pursuant to 28 U.S.C. §1446(a).

3
4 DATED: June 7, 2018

LOMBARDI & DONOHUE LLP

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6
7 By /s/ Brett D. Watson

Brett D. Watson

8 Attorneys for Defendant, JPMORGAN
9 CHASE BANK, N.A.
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LOMBARDI & DONOHUE LLP
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE:

I, Lisa S. Gibbons, am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 800 Wilshire Boulevard, Suite 800, Los Angeles, California 90017.

On June 7, 2018 I served the foregoing **"NOTICE OF REMOVAL OF CIVIL ACTION BY DEFENDANT JPMORGAN CHASE BANK, N.A., PURSUANT TO 28 U.S.C. SECTION 1441(b)"** on Interested Parties in this action as follows:

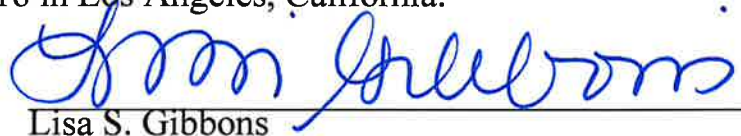
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Attorneys for Plaintiff Huyen Chi Ton Nu

[X] (BY U.S. MAIL) I deposited such envelope in the mail at Los Angeles, California. The envelopes were mailed with postage thereon fully prepaid. I am readily familiar with Lombardi & Donohue's practice of collection and processing correspondence for mailing. Under that practice, documents are deposited with the U.S. Postal Service on the same day which is stated in the proof of service, with postage fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date stated in this proof of service.

[X] (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on June 7, 2018 in Los Angeles, California.



Lisa S. Gibbons